

REMARKS

The Office action dated December 19, 2005, and the references cited therein have been carefully reviewed in light of the examiner's helpful comments and suggestions.

As a result of the Office action, claims 1 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Heil. Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by Maenke. Moreover, claims 2-4 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heil in view of Maenke. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heil in view of Maenke, and further in view of Gouttefangeas. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heil in view of Maenke and in view of Gouttefangeas, and further in view of Hagen. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heil in view of Hagen. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heil in view of Gouttefangeas. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heil in view of Gouttefangeas and further in view of Hagen. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heil in view of Gouttefangeas and further in view of Daenen. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heil in view of Daenen. And,

claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heil in view of Daenen and further in view of Maenke. These references have been carefully reviewed but are not believed to show or suggest Applicants' invention as now claimed in any manner. Reconsideration and allowance of the pending claims is therefore respectfully requested in view of the following remarks.

By the above amendment, claim 20 is canceled without prejudice or disclaimer, thereby rendering the anticipation rejection of that claim under 35 U.S.C. 102(e) by Maenke moot.

According to MPEP 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Moreover, according to MPEP 2143.03, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

However, the Applicants respectfully submit that the examiner has not identified where in the primary prior art reference Heil the following limitations of claim 1 is disclosed: "a base tray", "an upwardly extending dome-shaped cover positional over said tray to define a product receiving chamber", "said vent opening being defined by a peripheral rim formed by the surrounding cover", and "said vent panel having

a peripheral edge portion coextensive with said opening."

With respect to independent claims 1 and 17, the examiner has taken a position that "Heil '980 teaches a container with a dome-shaped cover (104) having a vent panel (108) and means for releasably locking the vent panel to the cover." *Office action*, paragraph 2. Similarly, the examiner has taken position that "Maenke '675 teaches a removable vent panel for a bung comprising a water proof/vapor permeable foil membrane (74)." *Office action*, paragraph 3. However, Applicants respectfully submit that the examiner has not identified where in those references the other limitation recited in claims 1 and 17 are disclosed. Heil teaches a container 102, a lid 104, and filter 106, wherein the filter 106 and the lid are designed to mate together such that the filter 106 cannot be removed from or inserted into the lid 104 without user intervention. Applicants respectfully submit that Heil does not teach "a base tray", "an upwardly extending dome-shaped cover positional over said tray to define a product receiving chamber", "said vent opening being defined by a peripheral rim formed by the surrounding cover", and "said vent panel having a peripheral edge portion coextensive with said opening."

Moreover, according to MPEP 2141.01, to rely on a reference under 35 U.S.C. 103(a), it must be analogous art. The examiner must determine what is "analogous prior art" for

the purpose of analyzing the obviousness of the subject matter at issue. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Applicants respectfully submit that Maenke is non-analogous art as it relates to venting device for drums or barrels for transporting and dispensing chemicals and industrial fluids, and not a cheese server tray for foodstuff having a vent means. In view of foregoing, it is respectfully submitted that claims 1 and 17 are allowable over the prior art. Claim 2-16 and 18-19 are dependent from claims 1 and 18, respectively, and are therefore believed to be allowable for the same reasons as claims 1 and 17.

Each issue raised in the Office action dated December 19, 2005, has been addressed and it is believed that claims 1-19 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. Applicants respectfully request that a timely Notice of

Allowance be issued in this case.

Respectfully submitted,
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